



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/240,675	02/02/1999	PATRICK BENOIT	017283/0123	7649

7590

07/16/2003

FOLEY AND LARDNER
3000 K STREET NW SUITE 500
P O BOX 25696
WASHINGTON, DC 200078696

EXAMINER

DEVI, SARVAMANGALA J N

ART UNIT

PAPER NUMBER

1645

DATE MAILED: 07/16/2003

27

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/240,675

Applicant(s)

Benoit et al.

Examiner

S. Devi, Ph.D.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 1, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23, 25, 26, 29, and 30 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23, 25, and 26 is/are allowed.
- 6) ☒ Claim(s) 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Aug 1, 2002 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Sequence search report.

Serial Number: 09/240,675
Art Unit: 1645

RESPONSE TO APPLICANTS' AMENDMENT

Applicants' Amendment

- 1) Acknowledgment is made of Applicants' amendment filed 08/01/02 (paper no. 23) in response to the non-final rejection mailed 02/01/02 (paper no. 20). With this, Applicants have amended the specification.

Status of Claims

- 2) Claim 24 has been canceled via the amendment filed 08/01/02.
Claims 23, 25 and 26 are amended via the amendment filed 08/01/02.
New claims 29 and 30 have been via the amendment filed added 08/01/02.
Claims 23, 25, 26, 29 and 30 are pending and under examination.

Prior Citation of Title 35 Sections

- 3) The text of those sections of Title 35 U.S. Code not included in this action can be found in a prior Office Action.

Prior Citation of References

- 4) The references cited or used as prior art in support of one or more rejections in the instant Office Action and not included on an attached form PTO-892 or form PTO-1449 have been previously cited and made of record.

Specification

- 5) It is noted that references made to Figures 2 and Figure 3 are inconsistent in the Drawings and under the description of the Figures on page 13. While Figures 2 and 3 in the drawings refer to the panels as '2A' and '2B' and '3A' and '3B', the Figure descriptions on page 13 do not refer to these Figures as --Figure 2A and 2B-- and --Figure 3A and 3B--. Amendments to page 13 of the specification is requested. The reference to these two Figures throughout the specification should be changed accordingly.

The title of the invention does not accurately represent the claimed invention. A new title --Human interferon receptor-- is suggested.

Objection(s) Withdrawn

- 6) The objection to the drawing(s) made in paragraph 7 of the Office Action mailed 09/03/99 (paper no. 7) is withdrawn in light of Applicants' submission of formal Drawing 1. All drawings

Serial Number: 09/240,675
Art Unit: 1645

have been approved by the Draftsperson.

- 7) The objection to the oath or declaration made in paragraph 11 of the Office Action mailed 01/31/01 (paper no. 14) as being defective is withdrawn in light of the waiver under 37 C.F.R. § 1.183. See paper no. 26 mailed 04/24/03.
- 8) The objection to the specification made in paragraphs 13(a), 13(b), 13(c) and 13(d) of the Office Action mailed 01/31/01 (paper no. 14) is withdrawn in light of Applicants' amendments to the specification.

Rejection(s) Moot

- 9) The rejection of claim 24 made in paragraph 15 of the Office Action mailed 01/31/01 (paper no. 14) under 35 U.S.C. § 112, first paragraph, as containing new matter, is moot in light of Applicants' cancellation of the claim.

Rejection(s) Withdrawn

- 10) The rejection of claims 23, 25 and 26 made in paragraph 16 of the Office Action mailed 02/01/02 (paper no. 20) under 35 U.S.C. § 112, first paragraph, as containing new subject matter, is withdrawn in light of Applicants' amendments to the claims.
- 11) The rejection of claim 23 made in paragraph 18 of the Office Action mailed 02/01/02 (paper no. 20) under 35 U.S.C. § 102(e) as being anticipated by Urban *et al.* (US 5,880,103), is withdrawn in light of Applicants' amendments to the claim.
- 12) The rejection of claim 23 made in paragraph 19 of the Office Action mailed 02/01/02 (paper no. 20) under 35 U.S.C. § 102(b) as being anticipated by Benoit *et al.* (*J. Immunol.* 150: 707-716, 01 February 1993 - Applicants' IDS), is withdrawn in light of Applicants' amendments to the claim.

New Rejection(s)

Applicants are asked to note the following new rejection(s) made in this Office. The new rejections are necessitated by Applicants' submission of new claims.

Rejection(s) under 35 U.S.C. 102

- 13) Claims 29 and 30 are rejected under 35 U.S.C. § 102(e) as being anticipated by Mogensen *et al.* (US 5,889,151).

Mogensen *et al.* disclosed a recombinant (i.e., isolated) peptide or polypeptide comprising an amino acid sequence from position 1 to position 229 of the instantly recited amino acid sequence,

Serial Number: 09/240,675
Art Unit: 1645

SEQ ID NO: 2. See claims and the Sequence Listing. A sequence search performed in the Office shows 100% sequence match or structural identity between the claimed peptide or polypeptide and that of the prior art. See the attached sequence search report.

Claims 29 and 30 are anticipated by Mogensen *et al.*

Remarks

- 14) Claims 23, 25 and 26 are allowed. Claims 29 and 30 stand rejected.
- 15) Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

- 16) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center located in Crystal Mall 1 (CM1). The transmission of such papers by facsimile must conform with the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The CM1 facsimile center's telephone number is (703) 308-4242, which receives papers 24 hours a day, seven days a week. The RightFax number for submission of before-final amendments is (703) 872-9306. The RightFax number for submission of after-final amendments is (703) 872-9307.

- 17) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (703) 308-9347. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.45 a.m to 4.15 p.m. except one day each bi-week which would be disclosed on the Examiner's voice mail system


If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

Serial Number: 09/240,675
Art Unit: 1645

supervisor, Lynette Smith, can be reached on (703) 308-3909.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

July 2003


S. DEVI, PH.D.
PRIMARY EXAMINER